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March 15, 1999

K. David Waddell  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

In Re: BellSouth Telecommunications, Inc.'s Entry into Long Distance Interlata Service  
in Tennessee Pursuant to Section 271 of the Telecommunications Act of 1996  
Docket No. 97-00309


Dear David:

Enclosed please find the original plus thirteen (13) copies of the Comments of MCI  
WorldCom Regarding BellSouth Telecommunications, Inc.'s "Motion to Remove Item No. 1."  
Copies have been served on all parties of record.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

  
Jon E. Hastings

JEH/sja  
Enclosures

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>In re: BellSouth Telecommunications, Inc.'s</b>	)	
<b>Entry Into Long Distance (InterLATA)</b>	)	<b>Docket No. 97-00309</b>
<b>Service in Tennessee Pursuant to Section 271</b>	)	
<b>Of the Telecommunications Act of 1996</b>	)	

**COMMENTS OF MCI WORLDCOM REGARDING  
BELLSOUTH TELECOMMUNICATIONS,  
INC.'S "MOTION TO REMOVE ITEM NO. 1"**

MCI Telecommunications Corporation and WorldCom Technologies Inc. (collectively "MCI WorldCom") file these comments regarding BellSouth Telecommunications, Inc.'s ("BellSouth") "Motion to Remove Item No. 1 From March 16, 1999 Final Conference Agenda." Succinctly put, MCI WorldCom believes there is no good reason for the Tennessee Regulatory Authority (the "Authority") to grant BellSouth's Motion and a plethora of reasons to deny it.

As the Authority is no doubt keenly aware, it sets the agenda for its own bi-weekly meetings. A party to a pending proceeding has options if it opposes the Authority's voting on a matter at a particular time but these options do not, or should not, include dictating when a matter is set on the Authority's Conference Agenda. Among its options, the party -- if a petitioner like BellSouth -- may withdraw its application entirely. Alternately, a party may attend the Authority's meeting and comment during the Authority's deliberation regarding the propriety or lack thereof of voting on a particular item. The Authority has historically been lenient in permitting parties to comment during its deliberations.

Turning to the specific "reasons" noted in BellSouth's Motion:

1. Because the UNE docket has not been finalized, the Authority will consider BellSouth's petition premature.

The fact that UNE prices had not been finalized in no way kept BellSouth from filing its petition with the Authority, even though it was aware at that time of the Authority's views regarding permanent UNE prices and compliance with Section 271. Were the lack of permanent UNE prices of concern to BellSouth, it certainly could have waited until the establishment of such prices before filing its 271 petition. Indeed, had the Authority not had to focus the resources it has had to devote to the 271 petition itself, the UNE docket might well be concluded now.

2. AT&T and NEXTLINK have requested leave to supplement the record but have not yet had the opportunity to do so yet.

It is true that AT&T and NEXTLINK have sought to supplement the record, in light of BellSouth's filing a large pile of new purported "evidence" not only after the hearing was concluded but after the briefing as well. While it may be polite of BellSouth to express such concern about its adversaries' right to supplement the record, certainly these parties can speak for themselves and can inform the Authority of any objections they have to the Authority deciding this matter without the benefit of the additional information they wish(ed) to introduce.

MCI WorldCom would take this opportunity to suggest (as it did in its brief) that, should the Authority believe that it will be faced with another 271 petition in the future, that it establish a clear rule requiring, as the FCC does, that BellSouth introduce all evidence upon which it intends to rely in the proceeding at the time it makes its filing. Not only does BellSouth bear the burden of proof in a 271 application, it is also the party that chooses when to file with the Authority (and the FCC). BellSouth is, therefore, uniquely poised in cases such as this to ensure that, at the time it files, it offers sufficient evidence on all relevant issues. Similarly, BellSouth is uniquely responsible for

ensuring the record's completeness. Neither the Authority nor any regulatory agency can fulfill its responsibilities under Section 271(d)(2)(B) of the Act unless it has had a complete and accurate record before it with ample time for review. Permitting BellSouth to supplement the record after a hearing has taken place and the entire matter briefed is clearly harmful to judicial economy and should be explicitly proscribed in the future.

3. William Denk of M/A/R/C was recently deposed regarding BellSouth's study of PCS as a substitute for wireline service and the Authority should not issue a ruling before the transcript of this deposition is filed with the Authority.

It is MCI WorldCom's recollection that BellSouth has already informed the Authority that it did not intend to rely upon this PCS study in its effort to prove that PCS is a substitute for its wireline service (and a "Track A" enabler). Moreover, BellSouth filed a nearly-identical study in conjunction with its second application for interLATA authority at the FCC ("Louisiana II") and in its Order on that application, the FCC found:

We conclude that the M/A/R/C study is fundamentally flawed and that it cannot be relied upon to demonstrate that broadband voice PCS is a substitute for traditional wireline service. In particular, we conclude that the M/A/R/C study contains the following significant methodological deficiencies: (1) the sample group was not randomly selected; (2) the study is not based on statistical analysis; and (3) the study disguises the complementary nature of the services. *Application of Application of BellSouth For Provision of In-Region, InterLATA Services in Louisiana*, CC Docket 98-121, Memorandum Opinion and Order, FCC 98-271 at 35 (rel. Oct. 13, 1998) ("*Louisiana II*")

Lack of a written transcript from Mr. Denk's deposition would not appear to pose significant problems for the Authority's deliberations on and decision regarding BellSouth's petition.

4. BellSouth has not yet completed its negotiation with NEXTLINK regarding whether NEXTLINK agrees that all of the checklist items the FCC found BellSouth to have met in *Louisiana II* are indeed met.

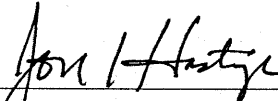
The Authority has enough information before it to decide this matter whether NEXTLINK agrees that BellSouth meets all of the FCC-noted items or not. The Authority could elect to find that

BellSouth meets the items noted as met by the FCC in *Louisiana II*; it could elect to find BellSouth non-compliant on the item(s) noted by NEXTLINK; or it could elect to decide the matter on other grounds and not address this/these item(s). The Authority's inquiry into whether all parties agree with the items noted by the FCC in its *Louisiana II* order as having been met was initiated many months ago and if no stipulation has yet been entered into by NEXTLINK with BellSouth, there is no reason for the Authority to further postpone its decision in the hopes that one will be struck.

### **CONCLUSION**

MCI WorldCom believes that it is up to the Authority, not the parties, to decide when to deliberate and vote on this matter. Tuesday appears (to MCI WorldCom) to be as good a day as any and BellSouth has not put forth any reason sufficient for the Authority to decide against deliberating and voting this Tuesday. If the Authority does grant BellSouth's Motion, however, MCI WorldCom would urge the Authority to ensure that additional delay is not used by BellSouth as yet another opportunity to "supplement" the record with "evidence" that does not get tested by cross examination. The Authority received briefs from the parties in this matter many months ago and heard the matter longer ago than that. It is certainly ripe for a decision if the Authority wishes to issue a decision at its regularly scheduled meeting on March 16, 1999.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing has been hand delivered or mailed to the following persons on this the 15th day of March, 1999:

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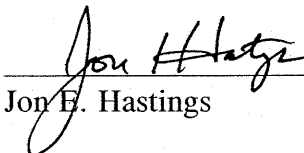
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